

Sec.		Sec.	
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EFFECTIVE DATE

This chapter, act July 5, 1946, ch. 540, 60 Stat. 427, became effective one year from July 5, 1946, and repealed chapter 3 of this title as of that date. See notes under section 1051 of this title.

PRIOR LAWS

The Trade-Mark Act of 1905 superseded the Trade-Mark Act of Mar. 3, 1881, ch. 138, 21 Stat. 502, entitled "An Act to authorize the registration of trade-marks and protect the same," and also act Aug. 5, 1882, ch. 393, 22 Stat. 298, entitled "An Act relating to the registration of trade marks". Former section 109 of this title repealed all inconsistent acts and parts of acts, except so far as they might apply to certificates of registra-

tion issued under the Trade-Mark Act of Mar. 3, 1881, ch. 138, and act Aug. 5, 1882, ch. 393.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 section 2320; title 19 section 1337; title 36 section 380; title 48 section 1643.

SUBCHAPTER I—THE PRINCIPAL REGISTER

§ 1051. Registration of trade-marks

(a) Trade-marks used in commerce

The owner of a trade-mark used in commerce may apply to register his or her trade-mark under this chapter on the principal register established:

(1) By filing in the Patent and Trademark Office—

(A) a written application, in such form as may be prescribed by the Commissioner, verified by the applicant, or by a member of the firm or an officer of the corporation or association applying, specifying applicant's domicile and citizenship, the date of applicant's first use of the mark, the date of applicant's first use of the mark in commerce, the goods in connection with which the mark is used and the mode or manner in which the mark is used in connection with such goods, and including a statement to the effect that the person making the verification believes himself, or the firm, corporation, or association in whose behalf he makes the verification, to be the owner of the mark sought to be registered, that the mark is in use in commerce, and that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive: *Provided*, That in the case of every application claiming concurrent use the applicant shall state exceptions to his claim of exclusive use, in which he shall specify, to the extent of his knowledge, any concurrent use by others, the goods on or in connection with which and the areas in which each concurrent use exists, the periods of each use, and the goods and area for which the applicant desires registration;

(B) a drawing of the mark; and

(C) such number of specimens or facsimiles of the mark as used as may be required by the Commissioner.

(2) By paying into the Patent and Trademark Office the prescribed fee.

(3) By complying with such rules or regulations, not inconsistent with law, as may be prescribed by the Commissioner.

(b) Trade-marks intended for use in commerce

A person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in commerce may apply to register the trademark under this chapter on the principal register hereby established:

(1) By filing in the Patent and Trademark Office—

(A) a written application, in such form as may be prescribed by the Commissioner, verified by the applicant, or by a member of the firm or an officer of the corporation or association applying, specifying applicant's domicile and citizenship, applicant's bona fide intention to use the mark in commerce, the goods on or in connection with which the applicant has a bona fide intention to use the mark and the mode or manner in which the mark is intended to be used on or in connection with such goods, including a statement to the effect that the person making the verification believes himself or herself, or the firm, corporation, or association in whose behalf he or she makes the verification, to be entitled to use the mark in commerce, and that no other person, firm, corporation, or association, to the best of his or her knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive; however, except for applications filed pursuant to section 1126 of this title, no mark shall be registered until the applicant has met the requirements of subsection (d) of this section; and

(B) a drawing of the mark.

(2) By paying in the Patent and Trademark Office the prescribed fee.

(3) By complying with such rules or regulations, not inconsistent with law, as may be prescribed by the Commissioner.

(c) Amendment of application under subsection (b) to conform to requirements of subsection (a)

At any time during examination of an application filed under subsection (b) of this section, an applicant who has made use of the mark in commerce may claim the benefits of such use for purposes of this chapter, by amending his or her application to bring it into conformity with the requirements of subsection (a) of this section.

(d) Verified statement that trade-mark is used in commerce

(1) Within six months after the date on which the notice of allowance with respect to a mark is issued under section 1063(b)(2) of this title to an applicant under subsection (b) of this section, the applicant shall file in the Patent and Trademark Office, together with such number of specimens or facsimiles of the mark as used in commerce as may be required by the Commissioner and payment of the prescribed fee, a verified statement that the mark is in use in commerce and specifying the date of the applicant's first use of the mark in commerce, those goods or services specified in the notice of allowance on or in connection with which the mark is used in commerce, and the mode or manner in which the mark is used on or in connection with such goods or services. Subject to examination and acceptance of the statement of use, the mark shall be registered in the Patent and Trademark Office, a certificate of registration shall be is-